

**MINUTES OF THE FLORENCE TOWN COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 8, 2009 AT 6:00 P.M. IN THE CHAMBERS OF TOWN HALL, LOCATED AT 775 N. MAIN STREET, FLORENCE, ARIZONA.**

**CALL TO ORDER**

Mayor Kilvinger called the meeting to order at 6:05 p.m.

**ROLL CALL:**

Present: Kilvinger, Smith, Woolridge, Celaya, Hawkins, Brown  
Absent: Raasch

**PLEDGE OF ALLEGIANCE**

Mr. James Mannato, Town Attorney, led the Pledge of Allegiance.

**CALL TO THE PUBLIC**

**Call to the Public for Public Comment on items that appear on the September 8, 2009 Town Council Agenda.**

There were no public comments..

o

**PUBLIC HEARINGS AND PRESENTATIONS**

**Public Hearing on Arizona Farms Planned Unit Development (Application withdrawn by applicant).**

Mr. Mark Eckhoff, Planning Director, stated that the economic climate has changed so significantly since the beginning of the project that it has impacted the willingness of the property owners to be annexed by the Town or to receive the proposed new Town PUD zoning. Several investors have decided not to move forward. He said there are several property owners within the area that have viable projects and still want to be annexed into Florence. The Town would like to reconfigure the annexation area and proceed.

Mayor Kilvinger opened the public hearing, there being no public comment, Mayor Kilvinger closed the public hearing.

On motion of Vice-Mayor Smith, seconded by Councilmember Hawkins and carried to accept the applicant's withdrawal of the application for Arizona Farms Planned Unit Development.

**Public Hearing on Dobson Farms Planned Unit Development (Staff requests item be tabled).**

Mayor Kilvinger opened the public hearing, there being no public comment, Mayor Kilvinger closed the public hearing.

Mr. Eckhoff stated that the Town has worked with the Dobson Farms ownership group extensively and would like to continue to work with them and move forward with a revised annexation boundary. Mr. Eckhoff stated that they have a viable project. The Town will need to go back to the drawing board and reconfigure the annexation. The reconfiguration will need to go before the Council and Pinal County.

On motion of Vice-Mayor Smith, seconded by Councilmember Brown and carried to table the Dobson Farms Planned Unit Development.

**Main Street Program presentation regarding awards received at the Governor's Regional and Rural Development Conference for Best Public-Private Partnership, Main Street Business of the Year, and Best Special Event.**

Ms. Jennifer Evans, Main Street Program, stated the Silver King Hotel received the Best Private-Public Partnership Award. Mayor Kilvinger, and Ms. Bonnie Bariola, Florence Preservation Foundation, accepted the award on behalf of the Town of Florence.

Ms. Bariola thanked Katie and Bill Montano for starting the Florence Preservation Foundation. She thanked Ms. Evans for writing the application and for submitting it for the award.

Ms. Evans stated that Mr. Frank Puglia, Desert Water and Ice, won the Businesses Excellence Award. She said that Mr. Puglia strives to incorporate his business in the community. His business has increased over 300% in the last 18 months, which is a noticeable accomplishment.

Mayor Kilvinger thanked Mr. Puglia for proving that you can have a good business on Main Street. She added that he is a wonderful volunteer.

Ms. Evans stated that the 2008 Multicultural Festival won an award as well. The award was presented to the Main Street Board of Directors.

Mayor Kilvinger thanked the Main Street Program Board on behalf of the Town, the staff, and the residents of the Town of Florence.

Ms. Evans said that "Hear Your History Audio Tour of Historic Florence" was nominated for the Best Promotional Material category. Ms. Evans said that the tour highlights the people, and the historical events in the Historic District. The tour strengthens the downtown's image as a cultural heritage destination as well as preserves the history.

Ms. Evans said the rehabilitation of the Silver King was nominated for the Best Large Scale Project and was a finalist. Western Feed and Supply was nominated for the Medium Scale Project. She said that they were also a finalist.

## **Florence Complete Count Committee presentation of the Census 2010 Poster Contest.**

Ms. Lisa Garcia, Town Clerk, stated that the Complete Count Committee sponsored a poster contest to help get the word out about being counted for the census.

Ms. Amy Fuller, Committee Member, stated that it is very important for everyone to be counted in the census. She said the committee felt a poster contest was a good way to help spread the message that everyone needs to be counted. The Committee partnered with the Florence Unified School District in which eight schools and 7,000 students had the opportunity to participate. The entries were presented to the Board of Trustees on May 13, 2009. Each of the posters help to relay the message: "You are Important enough to be counted". She said the posters will be displayed throughout the community.

Mayor Kilvinger thanked the Committee for their hard work and for helping to spread the message of the importance of being counted.

## **UNFINISHED BUSINESS**

### **Ordinance No. 512-09:**

Mr. Himanshu Patel, Town Manager, read Ordinance No. 512-09 by title only.

**AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, CREATING CHAPTER 135 OF TITLE XIII OF THE FLORENCE TOWN CODE TITLED PERMITTING OR ENCOURAGING UNDERAGE DRINKING (first reading August 17, 2009).**

Mr. Robert Ingulli, Police Chief, gave a brief overview of Ordinance Nos. 512-09 and 513-09. He stated that the ordinances would be valuable tools for the Police Department.

Mr. Rodolfo Calvillo, Pinal Hispanic Council, gave a brief overview of the how the ordinances can assist the Police Department. He stated that Casa Grande, Coolidge, Eloy, and Superior have already adopted the ordinances.

Mr. Tom Rankin said that there are state statutes which govern the same thing as the proposed ordinances. The ordinances place the burden of responsibility on the property owner. He said that there is farm land that has been annexed into Florence which minors go to and drink. He said both ordinances have flaws in them. He said that he does not believe that anyone on the Council condones or encourages underage drinking; even though everyone knows that it happens. He said the ordinances do not contain anything that state law does not cover.

Councilmember Celaya stated that he understood Mr. Rankin's concerns. He said that he felt it was a "feel good" ordinance. He said it is difficult to place another layer of rules on top of something for which there are already rules.

Councilmember Hawkins agreed with Councilmember Celaya and Mr. Rankin. He said he did not see placing an ordinance over laws that are already in place. He said it is illegal to

Florence Town Council Meeting

September 8, 2009

Page 3 of 9

furnish liquor to a minor. He does not feel it is proper to pass an ordinance. He does not condone teenage drinking.

On motion of Councilmember Woolridge, seconded by Councilmember Brown to approve Ordinance 512-09.

Roll Call Vote:

Yes: Woolridge, Brown

No: Celaya, Hawkins, Smith, Kilvinger

Motion Failed (Yes: 2; No: 4).

**Ordinance No. 513-09:**

Mr. Himanshu Patel, Town Manager, read Ordinance No. 513-09 by title only.

**AN ORDINANCE OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, CREATING CHAPTER 136 OF TITLE XIII OF THE FLORENCE TOWN CODE TITLED UNRULY GATHERINGS (first reading August 17, 2009).**

Police Chief Ingulli stated that he supports Ordinance No. 513-09.

Mr. Calvillo gave a brief overview as to how this ordinance will assist the Police Department. He said the ordinance is to address unruly gatherings which disturb the peace as well as give landlords, who oversee consistently nuisance locations, options by affording them the opportunity to include violations of these ordinances in their leases.

Vice-Mayor Smith stated the ordinance is very ambiguous. He stated the ordinance is up to interpretation rather than being factual and there are not exceptions in the ordinance. He stated that the ordinance is a good idea but needs to be clarified.

Mr. Calvillo further discussed the reasons as to why the ordinance would be a valuable tool for the Police Department. He stated that Tucson adopted the same type of ordinance 12 years ago and has had it challenged 18 times unsuccessfully in court. He believes the ordinance holds merit.

Councilmember Celaya stated that he does not see a crisis in the community which would require this type of ordinance. He said there are mechanisms in the system to address unruly gatherings.

Discussion occurred regarding the pros and cons of the ordinance.

Mayor Kilvinger stated that there will be a fiscal impact as well as potential problems if the ordinance passes.

Councilmember Hawkins stated it appears to him that it was written for locations where raves occur. He is not aware of that type of problem in Florence.



Councilmember Woolridge stated that it appears as though the Council does not want to be proactive. She stated that the ordinance reads to make property and home owners accountable for what happens on their property. She stated that Florence is not the same community that it once was and it is changing. She stated the Council needs to be proactive.

Councilmember Brown stated that it is a shame to want to wait until the Town has a problem. She said it doesn't make sense to try and pass an ordinance once there is a problem.

Mr. Rankin stated that the laws are in place. He said all that needs to be done is to instruct the Police Department to enforce the laws. He discussed Section H. - Enforcement of the proposed ordinance and his concerns with that section.

On motion of Councilmember Woolridge, seconded by Councilmember Brown to adopt Ordinance No. 513-09.

Roll Call:

Yes: Woolridge, Brown

No: Celaya, Hawkins, Smith, Kilvinger

Motion Failed (Yes: 2; No: 4).

**CONSENT: All items indicated by an (\*) will be handled by a single vote as part of the consent agenda, unless a Councilmember or a member of the public objects at the time the agenda item is called.**

- a. **\*Acceptance of the Public Improvements for the Anthem @ Merrill Ranch Subdivision Unit 29.**
- b. **\*Award of Hunt Highway milling and paving to Knochel Bros., Inc. for the not-to-exceed amount of \$63,691.38 per Job Order Contract for Construction (Civil) presented to Council on October 6, 2008.**
- c. **\*Purchase order award of water storage reservoir demolition at the water storage tank facility in Vista Hermosa to Knochel Bros., Inc. for the not-to-exceed amount of \$45,322.18 per Job Order Contract for Construction (Civil) presented to Council on October 6, 2008.**
- d. **\*Authorization to submit a grant application to the U.S. Department of Transportation for Recovery Act funds through the TIGER (Transportation Investment Generating Economic Recovery) grant program for capital investments in surface transportation infrastructure projects.**
- e. **\*Approval of the minutes of the August 3, 2009 and the August 17, 2009 Town Council minutes.**

- f. **\*Receive and file the June 4, 2009, June 18, 2009, July 2, 2009, and July 16, 2009 Planning and Zoning Commission minutes.**

On motion of Vice-Mayor Smith, seconded by Councilmember Celaya and carried to approve the consent agenda as written.

## **NEW BUSINESS**

**Discussion/Approval/Disapproval of approving the Southwest Gas Franchise Agreement and referring the agreement to the voters for ratification by adoption of Resolution No. 1200-09:**

Mr. Patel read Resolution No. 1200-09 by title only.

**A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, DECLARING THAT GRANTING OF A CERTAIN NATURAL GAS FRANCHISE IS BENEFICIAL FOR THE TOWN OF FLORENCE; ORDERING THE ISSUE BE REFERRED TO THE VOTERS ON THE 9<sup>TH</sup> DAY OF MARCH, 2010, AT WHICH ELECTION THERE SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN OF FLORENCE THE QUESTION AS TO WHETHER OR NOT SUCH FRANCHISE SHALL BE GRANTED TO SOUTHWEST GAS CORPORATION AND PRESCRIBING THE FORM OF BALLOT TO BE USED AT SAID ELECTION.**

Ms. Garcia stated that Town staff has negotiated a new 25 year franchise agreement with Southwest Gas. Details of this agreement include the continuation of the 2% Franchise Fees with the inclusion of the favored nation clause, meaning that if another municipality receives an increase in their Franchise Fees the Town will have the ability to request the same fee. The Town implemented a 2% Capital Expenditure Fee. The franchise also included a 150% penalty on any permits not obtained by Southwest Gas. The Town has the ability to re-open negotiations in the 5<sup>th</sup> and 12<sup>th</sup> years.

Ms. Garcia said the Town has developed a good working relationship with Southwest Gas. The Town is asking that the relationship grow stronger with Southwest Gas by becoming a more active member of the community and by providing a local pay station for the residents of the Community. She said that staff is recommending that Council enter into the franchise agreement and refer the question to the voters in order for Southwest Gas to continue to provide service in Florence. The question will be placed on the March 2010 Primary Election:

**SHALL A FRANCHISE BE GRANTED TO SOUTHWEST GAS CORPORATION TO MAINTAIN AND OPERATE A GAS UTILITY SYSTEM IN THE TOWN OF FLORENCE, ARIZONA, AND FUTURE ADDITIONS THERETO, IN ACCORDANCE WITH THE PROPOSED AGREEMENT SUBMITTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF FLORENCE, ARIZONA, TO THE QUALIFIED ELECTORS OF SAID TOWN?**

A "YES" vote shall have the effect of approving the Franchise Agreement between Southwest Gas and Florence.

A "NO" vote shall have the effect of voting against the Franchise Agreement between Southwest Gas and Florence.

Mr. Walter Rifter, Southwest Gas Representative, said they have negotiated a win-win situation for both Southwest Gas and Florence.

On motion of Vice-Mayor Smith, seconded by Councilmember Celaya and carried to adopt Resolution No. 1200-09.

**Resolution No. 1201-09:**

Mr. Patel read Resolution No. 1201-09 by title only.

**A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, AUTHORIZING THE TOWN CLERK TO CONDUCT ELECTIONS IN 2010 AS ALL "MAIL BALLOT" ELECTIONS PURSUANT TO A. R. S. § 16-409 AND PAY POSTAGE FOR RETURNED BALLOTS.**

Ms. Garcia stated that many communities are utilizing all mail elections because it increases voter turn out. She said her goal is to increase voter turn out as well as eliminate barriers that keep people from voting. She said that 901 Florence voters (23%) have requested to be put on the permanent early mail ballot. She said Florence will only be doing all mail ballots for the 2010 Election. She said if Council chooses to go forward with an all mail ballot election in the future, staff will look at statistical data to determine the feasibility of doing so.

Ms. Garcia explained the process of all mail ballot elections. She stated that other communities who have done all mail elections have had an increase of approximately 20% in turn outs. She presented the arguments in favor and against all mail ballot elections. She identified the additional requirements of the Clerk should the Town elect to do all mail ballots.

Ms. Garcia acknowledged Southwest Gas for paying 50% of the election. She thanked them for their contribution.

On motion of Councilmember Woolridge, seconded by Councilmember Hawkins and carried to adopt Resolution No. 1201-09.

**Resolution No. 1203-09:**

Mr. Patel read Resolution No. 1203-09 by title only.

**A RESOLUTION OF THE TOWN OF FLORENCE, PINAL COUNTY, ARIZONA, APPROVING THE DEPUTATION AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR - BUREAU OF INDIAN AFFAIRS.**

Police Chief Ingulli stated that the agreement will bring the Police Department under the umbrella of the Bureau of Indian Affairs (BIA) while on the reservation and if the need arises to enforce federal laws. The Town of Florence has an agreement with the Tohono O'odham

Nation allowing for protection under the BIA if the Police Officers need to enforce federal laws on the reservation. The officers would be considered employees of the Federal Government verses being an employee of the Town.

Mr. Mannato explained the agreement and stated that the deputation is required in order to facilitate the agreement. He said the agreement allows the United States to supply Florence's Police Department with a reasonably extensive amount of training in Federal law and the enforcement thereof on Indian land. It also provides for the authority to uphold the law and provides the Town to be indemnified by the Tohono O'odham Nation against any claims as though Florence Police Officers were employed by the BIA.

Councilmember Celaya asked if there was participation by the local Tohono O'odham tribe.

Mr. Mannato stated that the Memorandum of Understanding was discussed with the Chief of the Tohono O'odham Nation. He said the level of local participation is unknown. The agreement is specific to the local tribe.

Chief Ingulli stated that the local tribe is aware of the agreement and they welcome the Police Department's presence. He said that there will be no cost for the three-day extensive training for the Police Officers.

On motion of Councilmember Brown, seconded by Vice-Mayor Smith and carried to adopt Resolution No. 1203-09.

**CALL TO THE PUBLIC/COUNCIL RESPONSE: Call to the Public for Public Comment on issues within the jurisdiction of the Town Council. Council rules limit public comment to three minutes. Individual Council Members may respond to criticism made by those commenting, may ask staff to review a matter raised or may ask that a matter be put on a future agenda. However, members of Council shall not discuss or take action on any matter during an open call to the public unless the matters are properly noticed for discussion and legal action.**

Tom Rankin attended a meeting on the Superstition Vista Project. He was surprised that the Town of Florence was the only government entity without an elected official on the committee. He said Florence has two staff with no elected officials attending the meetings. He said that Option D of the plan shows almost all of the Florence planning area as open space or recreation. He said Arizona Department of Transportation was responsible for the road in the area and not East Valley Partnership. Mr. Rankin does not want the developers dictating what will happen to Florence. He said Maricopa County does not have a place to recreate and they will be recreating in Pinal County and Florence's planning area.

Marie Cundiff, Chair of Florence Anti-Substance Abuse Coalition (FASA), presented the Council with information on the group. She invited the Council to attend FASA's meetings.

## **CALL TO THE COUNCIL**

Councilmember Celaya thanked Ms. Jennifer Evans on her efforts in nominating Florence for the 2009 Governor's Awards.

Florence Town Council Meeting


September 8, 2009

Page 8 of 9

Mayor Kilvinger was happy to see so many people attending the meeting. She thanked the Vice-Mayor for running the meeting while she was ill.

#### ADJOURNMENT

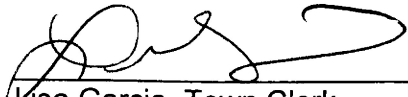
Mayor Kilvinger adjourned the meeting at 7:47 p.m.

  
\_\_\_\_\_  
Vicki Kilvinger, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Garcia, Town Clerk

I certify that the following is a true and correct copy of the minutes of the Florence Town Council meeting held on September 8, 2009, and that the meeting was duly called to order and that a quorum was present.

  
\_\_\_\_\_  
Lisa Garcia, Town Clerk